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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,385	02/23/2004	Daniel Seguin	MOSA-09	8425
26875 7590 09/23/2008 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202				
EXAMINER				
DUNWOODY, AARON M				
ART UNIT		PAPER NUMBER		
3679				
MAIL DATE		DELIVERY MODE		
09/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/784,385

**Applicant(s)**

SEGUIN ET AL.

**Examiner**

Aaron M. Dunwoody

**Art Unit**

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

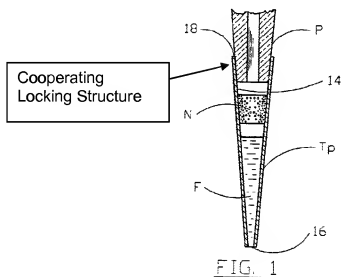
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4257268, Pepicelli et al in view of US patent 6117394, Smith.

In regards to claim 1, Pepicelli et al disclose a mounting fixture for connecting pipettes of various sizes to the air channel of a pipettor, the fixture comprising a tubular nose (240) having a proximate end secured to the pipettor and an open distal end; and a resilient retainer (242) lining the interior of the nose, the retainer having an axial passageway communicating at its entry and exit openings respectively with the open distal end of the nose and with the air channel of the pipettor, the passageway being tapered from a maximum diameter at the entry opening to a minimum diameter at the exit opening, the entry opening being sized to axially receive the largest of the pipettes and the sleeve being internally configured to resiliently grip differently sized pipettes inserted therein at different locations along the length thereof. Pepicelli does not disclose a stabilizing member at the open distal end of the nose with a cooperating locking structure. Smith teaches a stabilizing member (Tp) at the open distal end of the nose (P) to limit the possibility of cross contamination between samples (col. 1, lines 8-13). As Smith relates to disposable tips for pipette devices, it would have been obvious

to one having ordinary skill in the art at the time the invention was made to provide a stabilizing member at the open distal end of the nose with a cooperating locking structure to limit the possibility of cross contamination between samples, as taught by Smith.

**Note, the pipettes are not considered part of the claimed invention.**



In regards to claim 2, Smith further discloses the stabilizing member comprising a tubular sleeve projecting axially from the distal end of the nose.

In regards to claim 3, Smith further discloses the stabilizing member being rigid, and being detachably secured to the distal end of the nose, and having an inner diameter smaller than that of the entry opening of the resilient retainer.

In regards to claim 4, Smith further discloses the stabilizing member being snap fitted into the open distal end of the tubular nose.

In regards to claim 5, Pepicelli et al in view of Smith disclose the claimed invention except for the stabilizing member projecting axially from the distal end of the nose by a distance at least about 0.5 times the minimum diameter of the axial passageway in the resilient retainer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the stabilizing member projecting axially from the distal end of the nose by a distance at least about 0.5 times the minimum diameter of the axial passageway in the resilient retainer, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

#### ***Response to Arguments***

From the onset, Examiner contends that US patent 4257268, Pepicelli et al in view of US patent 6117394, Smith met all the structure claim limitations, even if the functional limitations are not repeated in the rejection above.

Applicant's arguments filed 6/6/2008 have been fully considered but they are not persuasive. Applicant argues that the prior art fails to disclose a cooperating locking structure. The Examiner disagrees. In Figure 1 above, Smith clearly illustrates a cooperating locking structure.

Further, limitations from specification not relied upon since it is the language itself of the claims which must particularly point out and distinctly claim the subject matter which the applicant regards as his invention, without limitations imported from the specification, whether such language is couched in terms of means plus function or consists of a detailed recitation of the inventive matter. Limitations in the specification

not included in the claim may not be relied upon to impart patentability to an otherwise unpatentable claim. *In re Lundberg*, 113 USPQ 530 (CCPA 1957).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/  
Primary Examiner, Art Unit 3679

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